

Message Text

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ACTION EA-14

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TO SECSTATE WASHDC 5112

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E.O. 11652: N/A

TAGS: EIND, EGEN, RP

SUBJ: LAUREL-LANGLEY: SECURITIES AND EXCHANGE COMMISSION RULING
CONCERNING RETAIL TRADE

1. THE PHILIPPINE SECURITIES AND EXCHANGE COMMISSION ISSUED
RULING JUNE 10 THAT WOULD PERMIT COMPANY WITH FOREIGN EQUITY
TO FINANCE ESTABLISHMENT OF NEW COMPANY TO TAKE OVER ITS RETAIL
TRADE OPERATIONS. SEC RULED THAT SINCE FINANCIAL ASSISTANCE
WOULD BE TEMPORARY AND SINCE SUCH FINANCING IS NOT THE PRIMARY
BUSINESS OF THE COMPANY EXTENDING THE CREDIT, IT WOULD NOT BE
CONTRARY TO PROVISIONS OF FINANCING COMPANY ACT (RA 5980).

2. FOLLOWING IS TEXT OF THE RULING:

QUOTE

GENTLEMEN:

YOUR LETTER OF MAY 14, 1974 REQUESTED A RULING WITH
RESPECT TO THE EXEMPTION OF THE APPLICABILITY OF THE
FINANCING COMPANY ACT (R.A. 5980) TO CERTAIN ASPECTS OF A
PROPOSED REORGANIZATION PLAN OUTLINED THEREIN.

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IT APPEARS THAT CORPORATION "A" IS ENGAGED BOTH IN

WHOLESALE AND RETAIL SALES OPERATIONS. LESS THAN 15PERCENT OF ITS CAPITAL STOCK ARE OWNED BY AMERICANS OR NON-FILIPINOS AND THE REST ARE OWNED BY FILIPINO STOCKHOLDERS. UNDER SECTION 1 OF THE RETAIL TRADE NATIONALIZATION LAW (R.A. 1180) ONLY FILIPINO CITIZENS AND ASSOCIATION, PARTNERSHIP OR CORPORATION, THE CAPITAL OF WHICH IS WHOLLY OWNED BY SUCH CITIZENS CAN ENGAGE DIRECTLY OR INDIRECTLY IN THE RETAIL BUSINESS. HOWEVER, UNDER THE LAUREL-LANGLEY AGREEMENT, UNITED STATES CITIZENS AND ENTERPRISES OWNED OR CONTROLLED BY THEM ARE GIVEN THE RIGHT TO ENGAGE IN RETAIL BUSINESS. WITH THE TERMINATION OF THE LAUREL-LANGLEY AGREEMENT ON JULY 3, 1974, THE FILIPINO STOCKHOLDERS OF "A" CORPORATION HAVE DECIDED TO ORGANIZE "B" CORPORATION TO HANDLE THE RETAIL SALES OPERATIONS OF "A" CORPORATION. IN ORDER TO HELP "B" CORPORATION IN ITS ASSUMPTION OF THE RETAIL BUSINESS, "A" CORPORATION WILL INITIALLY EXTEND CREDIT AND FINANCIAL ASSISTANCE TO THE SAME FOR A TEMPORARY DURATION ONLY. YOU REQUESTED CONFIRMATION OF YOUR IMPRESSION THAT SUCH ACT DOES NOT FALL WITHIN THE PURVIEW OF R.A. 5980.

CONSIDERING THAT THE PROPOSED FINANCIAL ACTS OF "A" CORPORATION WOULD BE MERELY TEMPORARY IN NATURE TO ASSURE A SMOOTH TAKE-OVER OF THE RETAIL BUSINESS BY "B" CORPORATION, THE COMMISSION WILL INTERPOSE NO OBJECTION THERETO, THE SAME NOT BEING A PRIMARY BUSINESS OF "A" CORPORATION.

THE COMMISSION, HOWEVER, MAY AT ANYTIME REQUEST "A" CORPORATION TO SUBMIT PROOF AS IS THE TEMPORARY OR EMERGENCY CHARACTER OF SAID ACTS.

VERY TRULY YOURS,

(SGD) ARCADIO YABYABIN
SECURITIES AND EXCHANGE COMMISSIONER

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